

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JAN 18 2006

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY BS DEPUTY

JAMES MURL BULLOCK,

Petitioner,

vs.

ERIC FRANKLIN, Warden,

Respondent.

No. CIV-05-215-W

ORDER

On November 23, 2005, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the Petition for a Writ of Habeas Corpus ("Petition") filed by petitioner James Murl Bullock be denied. Bullock was advised of his right to object, and he timely submitted his Objections to the Report and Recommendation.

Upon de novo review of the record, the Court concurs with Magistrate Judge Bacharach's suggested disposition of this matter. Bullock pled guilty in the District Court of Oklahoma County, Oklahoma, to one count of attempting to manufacture a controlled dangerous substance (methamphetamine) conjointly with others. Pursuant to that plea, Bullock was convicted and sentenced to a term of imprisonment of twenty-five (25) years.

Bullock thereafter unsuccessfully sought to withdraw his plea of guilty, and he was further unsuccessful in obtaining post-conviction relief. Bullock v. State, No. CF-02-581 (November 30, 2004).

In the instant Petition, Bullock has asserted the two claims—ineffective assistance of trial counsel and lack of probable cause for his arrest—first raised in his Application for

Post-Conviction Relief. The Oklahoma Court of Criminal Appeals declined to review the state district court's denial of these claims on the grounds that Bullock's appeal of such denial was untimely. Bullock v. State, No. PC-2005-24 (Okla. Crim. January 20, 2005).

As respondent Eric Franklin, Warden, has argued, further review by this Court is procedurally barred due to Bullock's failure to timely appeal the denial of his Application for Post-Conviction Relief. E.g., Coleman v. Thompson, 501 U.S. 722 (1991). The record further establishes that Bullock has not shown cause that will excuse his procedural default or shown that a fundamental miscarriage of justice will result from this Court's failure to consider his defaulted claims.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation issued on November 23, 2005;
- (2) DENIES Bullock's Petition file-stamped February 22, 2005; and
- (3) ORDERS that judgment issue forthwith.

ENTERED this 18th day of January, 2006.



LEE R. WEST
UNITED STATES DISTRICT JUDGE